

# WASHINGTON EMPLOYERS WILL SOON NEED TO POST SALARY INFO IN JOB POSTINGS: A 3-STEP COMPLIANCE PLAN

Insights  
Apr 11, 2022

Washington employers will soon need to include salary and benefits in all job postings thanks to an amended law that was recently signed into effect by Governor Inslee. Starting January 1, 2023, businesses with 15 or more workers will no longer be able to simply wait until the time a job offer is made to provide such information, but instead include it up front at the earliest possible point. This effort to promote pay equity is similar to [a law that went into effect in Colorado last year](#) and [one about to take effect in New York City](#). This could be very consequential for Washington's already-turbulent labor market – what do you need to know to prepare and comply? Here's a three-step compliance plan to get you ready for the big change.

## What is Changing?

In 2018, Washington state joined the pay transparency trend and added myriad amendments to its [Equal Pay and Opportunities Act](#). In addition to pay equity requirements, there were also **pay transparency provisions** that protected employees' rights to discuss their compensation freely without fear of retaliation. Those amendments all remain intact.

[The 2019 amendments to the EPOA](#) additionally required employers to disclose a minimum wage or salary for an applicant's position. Such a disclosure was only required *after* an employee had been offered the job, and even then, only upon the employee's request. That law applied to internal postings and promotions, only applied to businesses

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with 15 or more employees, and let individuals sue or file a complaint with Labor & Industries.

These new amendments repeal some of those 2019 amendments. Specifically, the new law will soon require employers to disclose a lot more information for new job applicants. Starting January 1, 2023, employers must:

- provide a wage scale or salary range for each job posting (as opposed to just a minimum);
- include a description of all benefits and compensation to be offered in the posting (as opposed to just wage or salary); and
- publicly advertise these disclosures along with the job ad (as opposed to only after an offer and upon request).

### **Different Set of Standards for Internal Job Postings**

Other parts of the 2019 disclosure rules remain intact. Notably, while the 2022 amendments will change how employers externally advertise job openings, they will still be bound by the 2019 rules when it comes to internal postings, promotions, and transfers. So, for these types of positions, employers are only required to provide a salary range or wage scale upon request—not in the posting. The minimum employee threshold and the remedy provisions will also remain intact.

### **How Can Washington Employers Comply?**

Given these differences, you should develop one approach for external postings and another approach for internal postings.

#### ***External Job Postings***

For external postings, the new law will require you to disclose a minimum and maximum compensation for any position. The law will apply to any solicitation you use to attract applicants, including printed job announcements or digital job board postings. The posting must also include a description of other benefits and compensation to be offered. It applies to job ads posted through recruiters and third parties as well.

#### ***Internal Job Postings***

For internal postings, the rules have been slightly modified. The employer is required to provide wage scale or salary information only “upon request of an employee offered an internal transfer to a new position or promotion.” But the law eliminated the prior option of providing minimum wage or salary expectation instead if “no wage scale or salary range exists.” In other words, there must be a wage scale or salary range for the position available in case the internal candidate requests it.

## What Should You Do?

Except for the smallest of businesses, employers across the state of Washington will need to reckon with the requirement of disclosing salary information in job listings starting on January 1, 2023. Here are three steps you should consider to prepare for the new law:

1. **Develop a plan to create a wage scale or salary range for all positions** and how to make necessary adjustments. This may involve working with a compensation analyst or conducting a compensation audit.
2. **Develop a process** by which you will consistently publish that information in connection with external job postings. If you use third-party hiring services or recruiters, make sure you communicate clearly with them about their need to comply with this new law when it comes to your postings.
3. Consider an **internal audit of current employee salaries** to make sure there are no significant discrepancies. At best, such anomalies could lead to discontent and employee attrition once you must start including salary information on job listings. At worst, they could lead to an equal pay lawsuit. Economic pressures may already be prompting you to reconsider your wage scales and salary ranges: inflation, supply chain woes, and the so-called “Great Resignation” have all caused businesses to find new ways to recruit and retain talent — up to and including raising wages. This new law coming into effect is a perfect opportunity to launch a pay equity audit to ensure that your entire workforce is compensated fairly and appropriately. While Washington’s law doesn’t provide a direct incentive to do so, some states provide a safe harbor for changes made in connection with an audit ([check out the FP Pay Equity Map here for more details](#)). You should also give consideration about whether such

an audit would be best conducted by working with your attorneys in order to preserve confidentiality when analyzing potential legal claims.

## **Conclusion**

We will monitor developments related to this impending new law, so make sure you are subscribed to [Fisher Phillips' Insight System](#) to get the most up-to-date information directly to your inbox. If you have questions about the salary transparency law or your related policies, contact your Fisher Phillips attorney, the authors of this Insight, or any attorney in our [Seattle office](#) or our [Pay Equity Practice Group](#).